

### REMARKS

This Application has been carefully reviewed in light of the Office Action mailed October 27, 2003. Applicants appreciate the Examiner's consideration of the Application. Claim 5 has been cancelled, and Claims 1, 25, and 30 have been amended to clarify, more particularly point out, and more distinctly claim inventive concepts previously present in these claims. Applicants respectfully submit that no new matter has been added by the amendments to the claims. In order to advance prosecution of this Application, Applicants have responded to each notation by the Examiner. Applicants respectfully request reconsideration and favorable action in this case.

### Specification

The Examiner states that the title is not descriptive. (*Office Action*, page 2, paragraph 3). Applicants have amended the title to be more descriptive as required by the Examiner.

### Section 102 Rejection

The Examiner rejects Claims 1, 5-8, 11-13, 15-23, 30-33, 35, and 37-44 under 35 U.S.C. § 102(e) as being unpatentable over U.S. Patent No. 6,023,722 to Colyer (*Colyer*). Applicants respectfully submit that *Colyer* fails to disclose, teach, or suggest the combination of limitations specifically recited in Applicants' claims.

For example, *Colyer* fails to disclose, teach, or suggest "dynamically" updating "the priority in response to a change of the state" (recited in Applicants' independent Claims 1, 25, and 30, as amended). } ^

The Examiner relies on *Colyer*'s Figure 2 and corresponding text describing priority assigning unit 312 to teach assigning priorities to a data request. (*Office Action*, page 3, paragraph 1). Nothing in *Colyer*, however, discloses, teaches, or suggests that *Colyer*'s priority assigning unit 312 "dynamically" updates the priority "in response to a change of the state" as disclosed in Applicants' Claims 1, 25, and 30, as amended. Consequently, *Colyer* fails to disclose, teach, or suggest the combination of limitations specifically recited in Applicants' independent Claims 1, 25, and 30. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." MPEP § 2131 (citing *Verdegaal Bros. v. Union Oil Co. of California*, 2 } ^

USPQ.2d 1051, 1053 (Fed. Cir. 1987)). Therefore, Applicants respectfully request that the Examiner withdraw this rejection of independent Claims 1, 25, and 30.

Applicants' dependent claims 5-8, 11-13, 15-23, 31-33, 35, and 37-44 are allowable based on their dependence on the independent claims 1, 25, and 30 and further because they recite numerous additional patentable distinctions over the cited reference. For example, *Colyer* fails to disclose, teach, or suggest "communicating alternate content to a remote computer associated with the request", recited in Applicants' Claim 6. Because Applicants believe they have amply demonstrated the allowability of the independent claims over the cited reference, and to avoid burdening the record, Applicants have not provided additional detailed remarks concerning the other dependent claims. Applicants, however, remain ready to provide such remarks if it becomes appropriate to do so. x 2

Applicants respectfully request reconsideration and allowance of independent Claims 1, 25, and 30 and all claims that depend on these claims.

**Section 103(a) Rejection**

The Examiner rejects under 35 U.S.C. § 103(a):

Claims 2-4, 9-10, 25-28, 34, and 36 as being unpatentable over *Colyer* in view of U.S. Patent Number 6,578,073 B1 issued to Starnes et al. ("*Starnes*");

Claims 14 and 29 as being unpatentable over *Colyer* in view of *Starnes* and U.S. Patent Number 5,582,812 issued to Reeder ("*Reeder*"); and

Claim 24 as being unpatentable over *Colyer* in view of U.S. Patent Number 6,304,913 issued to Rune ("*Rune*").

Applicants respectfully traverse this rejection. For at least the reasons already provided, Applicants respectfully submit that *Colyer*, alone or in combination with *Starnes*, *Reeder*, or *Rune*, fails to disclose, teach, or suggest the combination of limitations specifically recited in Applicants' independent Claims 1, 25, and 30. Applicants' dependent Claims 2-4, 9-10, 14, 24, 26-28, 29, 34, and 36 are thus allowable based on their dependence on the independent claims and further because they recite numerous additional patentable distinctions over the cited references. Consequently, Applicants respectfully request that the rejection of Claims 2-4, 9-10, 14, 24-28, 29, 34, and 36 be withdrawn.

Applicants respectfully request reconsideration and allowance of independent Claims 1, 25, and 30 and all claims that depend on these claims.

**CONCLUSION**

Applicants have made an earnest attempt to place this case in condition for allowance. For at least the foregoing reasons, Applicants respectfully request full allowance of all the pending claims.

If the Examiner believes a telephone conference would advance prosecution of this case in any way, the Examiner is invited to contact Keiko Ichiye, the Attorney for Applicants, at the Examiner's convenience at (214) 953-6494.

Although Applicants believe no fees are due, the Commissioner is hereby authorized to charge any fees or credit any overpayments to Deposit Account No. 02-0384 of Baker Botts L.L.P.

Respectfully submitted,

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